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on civil and
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HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Comments of the Human Rights Committee

REPUBLIC OF KOREA

1. The Committee considered the initial report of the Republic of Korea (CCPR/C/68/Add.1) at its 1150th, 1151st and 1154th meetings, held on 13, 14 and 15 July 1992, and adopted* the following comments:

A. Introduction

2. The Committee expresses its appreciation for the State party's well-documented report which had been submitted within the specified time-limit. The report contained detailed information on the laws and regulations relating to the implementation of the Covenant. However, the Committee notes that the report does not include sufficient information about the implementation of the Covenant in practice and about factors and difficulties which might impede the application of the Covenant. At the same time the Committee appreciates the clear and comprehensive oral replies and detailed clarifications given by the delegation.

* At the forty-fifth session (1173rd meeting), held on 29 July 1992.

B. Positive aspects

3. The Committee notes with satisfaction that in recent years the Republic of Korea has become a party to a number of international human rights instruments, including the Covenant and its Optional Protocol, and that it has made the declaration provided for in article 41 of the Covenant. It has also joined the International Labour Organisation. The Committee also notes with satisfaction that currently consideration is being given to the possibility of withdrawing the Republic of Korea's reservations to the Covenant. Additionally, progress has been made in regard to the provision of legal aid and towards narrowing the scope of operation of the National Security Law. Internal political dissent is now more accepted. The Constitutional Court, an independent organ, is playing a vigorous and important role.

C. Factors and difficulties impeding the application of the Covenant

4. The Committee notes that the relations between the two Koreas still appear to be an important factor affecting the human rights situation in the Republic of Korea. The recent conclusion of the Agreement on Reconciliation, Non-Aggression and Exchanges and Co-operation appears to constitute a positive step. According to the authorities, the Republic of Korea is, however, still coping with a very real threat of destabilization and military provocation and, therefore, the Government continues to hold the view that it is essential to retain the National Security Law in order to protect the security and integrity of its liberal democratic system.

D. Principal subjects of concern

5. The Committee expresses its concern over the fact that the Constitution does not incorporate all the rights enshrined in the Covenant. Also, the non-discrimination provisions of article 11 of the Constitution would seem to be rather incomplete as compared with articles 2 and 26 of the Covenant. These concerns are not allayed by the argument that, pursuant to article 37 of the Constitution, various rights and freedoms not enumerated therein are not to be neglected.

6. The Committee's main concern relates to the continued operation of the National Security Law. Although the particular situation in which the Republic of Korea finds itself has implications on public order in the country, its influence ought not to be overestimated. The Committee believes that ordinary laws and specifically applicable criminal laws should be sufficient to deal with offences against national security. Furthermore, some issues addressed by the National Security Law are defined in somewhat vague terms, allowing for broad interpretation that may result in sanctioning acts that may not be truly dangerous for State security and responses unauthorized by the Covenant.

7. The Committee wishes to express its concern regarding the use of excessive force by the police; the extent of the investigatory powers of the National Security Planning Agency; and the implementation of article 12, particularly in so far as visits to the Democratic People's Republic of Korea are concerned. The Committee also considers that the conditions under which prisoners are being

re-educated do not constitute rehabilitation in the normal sense of the term and that the amount of coercion utilized in that process could amount to an infringement of the provisions of the Covenant relating to freedom of conscience. The broad definition of State secrets in connection with the definition of espionage is also potentially open to abuse.

8. The Committee also expresses concern about the still high number of offences liable to the death penalty. In particular, the inclusion of robbery among the offences carrying the death penalty clearly contravenes article 6 of the Covenant. The very long period, allowed for interrogation before charges are brought, is incompatible with article 9, paragraph 3, of the Covenant. Other areas of concern relate to the continued imprisonment of persons on grounds of their political opinion; the persistence of discrimination against women in certain respects; problems relating to the principle of the lawfulness of the penalties covered by article 15 of the Covenant; and the requirement for advance authorization of assemblies and demonstrations.

E. Suggestions and recommendations

9. Taking into account the positive developments regarding respect of human rights that have taken place in the State party over the last years, the Committee recommends that the State party intensify its efforts to bring its legislation more in line with the provisions of the Covenant. To that end, a serious attempt ought to be made to phase out the National Security Law which the Committee perceives as a major obstacle to the full realization of the rights enshrined in the Covenant and, in the meanwhile, not to derogate from certain basic rights. Furthermore, measures should be taken to reduce the cases in which the death penalty is applied; to harmonize to a greater extent the Penal Code with the provisions of article 15 of the Covenant; and to reduce further the restrictions on the exercise of the right to peaceful assembly (art. 21). Finally, the Committee suggests that the Government actively consider withdrawing its sweeping reservation in respect of article 14 and take additional steps with a view to enhancing public awareness of the Covenant and the Optional Protocol in the State party.

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